



# City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 2302213  
**Applicant Name:** Gary M. Abrahams for T-Mobile Wireless Inc.  
**Address of Proposal:** 7701 8<sup>th</sup> Avenue Northwest

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future installation of a minor communication utility (T-Mobile) consisting of 3 panel antennas located in the right-of-way atop a City Light pole, and an equipment cabinet located on private property in a proposed detached accessory structure.

The following Master Use Permit components are required:

**Administrative Conditional Use Review** - to allow mechanical equipment associated with a minor communication utility whose antennas are located in the right-of-way, on private property in a Single Family (SF 5000) zone.

**SEPA - Environmental Determination** - Chapter 25.05, Seattle Municipal Code (SMC)

(Note: The notice of application for the proposal, dated May 22, 2003, included notice of a siting recommendation from the DPD Director to the Seattle City Light Superintendent. Subsequent to the May 22, 2003 notice, it was determined that such a siting recommendation for the proposed antennas is not required, and that the decision for placement of the antennas will be administered by the Superintendent of Seattle City Light.)

**SEPA DETERMINATION:**

☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

## **BACKGROUND INFORMATION**

### **Site and Vicinity Description**

The proposal sites are a Seattle City Light utility pole and private property. The utility pole is located in the 8<sup>th</sup> Avenue Northwest right-of-way situated between the curb and sidewalk on the west side of the street near the south end of the block and in front of the neighboring house at 7707 8<sup>th</sup> Avenue Northwest. The private property addressed at 7701 8<sup>th</sup> Avenue Northwest is situated at the corner of 8<sup>th</sup> Avenue Northwest and Northwest 77<sup>th</sup> Street. The property contains a total area of 5700 square feet (sq. ft.). This rectangular shaped reverse corner lot contains a one-story house with a detached garage that faces Northwest 77<sup>th</sup> Street. Vehicular access to the existing garage is from Northwest 77<sup>th</sup> Street. A 12 ft. alley abuts the west property line.

Both 8<sup>th</sup> Avenue Northwest and Northwest 77<sup>th</sup> Street are improved streets with curbs, sidewalks and gutters. 8<sup>th</sup> Avenue Northwest is classified as an arterial street and Northwest 77<sup>th</sup> Street is classified as a non-arterial street, pursuant to SMC Chapter 23.53.

The topography of the private property slopes gently downward from the west, slopes modestly in the middle and continues to steeply slope downward towards the east. The site is modestly vegetated with mature trees and shrubs mainly on the southeastern corner of the site. There are no street trees on this block or across the street from the subject sites.

The area is zoned Single Family 5000 (SF 5000). Surrounding properties and blocks are also zoned SF 5000. Development in the area consists of a variety of one and two-story single-family houses of varying age and architectural style on a variety of lot sizes, consistent with the zoning designation.

### **Proposal Description**

T-Mobile Wireless proposes to install a minor communication utility facility consisting of 3 panel (3-sector) antennas to be mounted within a 7'-9" high shroud atop a new 39'-3" wood laminate utility pole which would create an overall height of 47'-2". This new laminated utility pole will replace the existing 33' secondary utility pole at the same location in the 8<sup>th</sup> Avenue Northwest public right-of-way. The utility pole would be painted brown to be similar to the existing utility poles in the area. The applicant proposes to construct a new 10'x15' one-story detached accessory structure on a nearby property (7701 8<sup>th</sup> Avenue Northwest) that will contain the associated electronic equipment. The connecting cables to the external antennas will be buried underground and concealed inside the utility pole. Access to the equipment shelter would be via an existing detached garage driveway located on Northwest 77<sup>th</sup> Street.

The administrative conditional use component of this decision will focus primarily on the proposed detached equipment shelter accessory to the proposed antennas and the proposed minor communication use on private property. The environmental review (SEPA) portion of this decision will consider the entire scope of the applications, including the antennas proposed in the public right-of-way. However, as stated earlier, the Superintendent of Seattle City Light will issue a separate decision regarding the physical placement of proposed antennas and utility pole.

### Public Comments

This project received numerous comment letters, petitions and e-mails during and after the public comment period. The majority of the respondents opposed the location of the subject minor communication utility and expressed their concerns about the potential environmental health impacts associated with electromagnetic energy, the negative visual impacts associated with the proposal, the lack of public benefit to the community and that the proposed use is not compatible with the character of their neighborhood.

One hundred two (102) of the surrounding neighbors signed a petition to request a public meeting which was held on August 26th at Ballard Community Center. Two DPD staff members facilitated the meeting and forty-eight neighbors were in attendance. The agenda items discussed were review criterion and permit process overview for this particular master use permit. The neighbors raised many questions and concerns regarding possible negative visual impacts, exposure to electromagnetic radiation emissions, negative impacts to their property values, the "appropriateness" of this particular location and the possible future sitings of additional carriers in their neighborhood. The entire audience was very clear in voicing their opposition to this proposal.

### **ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE**

Section 23.57.010.C of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Single-Family Zone with the approval of an administrative conditional use permit when mechanical equipment associated with minor communication utilities whose antennas are located on another site or in the right-of-way, where the equipment is completely enclosed within a structure that meets the development standards of the zone and subject to the requirements of this section enumerated below:

- a. The proposal shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.*

The proposed mechanical equipment associated with a minor communication utility in the right-of-way would be located in a Single Family 5000 (SF 5000) zone at a site addressed as 7701 8<sup>th</sup> Avenue Northwest. The existing structures on the site are a single family dwelling and a detached garage whose entrances front on Northwest 77<sup>th</sup> Street. The equipment cabinets will be enclosed by a new one-story 150 sq. ft. shed built 10'-8" in height. The equipment shed will be situated east of the detached garage and designed to resemble the external characteristics of the garage. There are existing natural vegetation, tall deciduous trees and shrubs near the easternmost and southernmost corner of the subject site that screen the proposed equipment shelter. Therefore, this proposal does not represent a commercial intrusion which would be significantly detrimental to the residential character of the surrounding residentially zoned area.

The noise level is estimated to be below the ambient level of residential uses allowed within the Single Family 5000 zone according to the project acoustics' report. The equipment cabinets will be shielded by the walls of the proposed shelter in which it is to be located. The acoustical report notes that maximum noise mitigation is achieved by enclosing the equipment cabinets in an insulated structure. Also, due to the proximity of the shed to the neighboring property, mechanical venting would possibly be an issue. Therefore, a condition will be noted to address these concerns.

Traffic impacts are not anticipated other than one service visit per month. The proposal would be compatible with uses allowed in the zone, and since no housing or structure will be removed, the proposal will not result in displacement of residential dwelling units

*b. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible. The equipment cabinets will be located in equipment shed similar to those that one would find on single family parcels. The proposed equipment shed will be standard wood frame construction with a pitched roof with overhangs and gutters. It will be covered with ship lap siding and painted to match the color of the existing house. These design features do assist in screening and concealing the equipment from surrounding neighbors. Therefore, these design features will be a condition of approval for this permit.

*c. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

- a. the antenna is at least four hundred feet (400') from a MIO boundary; and*
- b. the antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay. Therefore, this provision is not applicable.

*d. If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The proposed equipment shelter will not exceed the zone height limit. Therefore, this provision is not applicable.

*e. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.*

The proposed minor communication utility is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

- f. If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A. except for minor communication utilities located on freestanding water tower or similar facility.*

The proposed minor communication utility will not be the third utility service on the same lot. Therefore, this provision does not apply.

### **DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT**

This application to install mechanical equipment associated with minor communication utilities whose antennas are located in the right-of-way in a Single Family zone, is **CONDITIONALLY APPROVED**.

### **ANALYSIS - SEPA**

Environmental review resulting in a threshold determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 225.05.665 D1-7) mitigation can be considered.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 2, 2003. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

### **Short-Term Impacts**

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise; consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant pursuant to SMC 25.05.794 and no mitigation is warranted.

### Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

### Long-Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including increases in the following: height, bulk and scale on the site; demand for utilities and electromagnetic radiation emission. These long term impacts are not considered significant. Height, bulk and scale impacts would be in compliance with the Land Use Code standards for minor communications utilities.

### Land Use

The Seattle Land Use Code and the Street Use Code specifically contemplate and regulate the location of minor communication facilities. The administrative conditional use criteria found in SMC 23.57 adequately mitigates potential adverse impacts of siting telecommunication antennas where they could be permitted in Single Family Zones whether a proposal requires the ACU for location on private property or requires a siting review and recommendation to the Superintendent of City Light. Therefore, the proposal does not warrant conditioning pursuant to the SEPA Land Use Policy 25.05.675 J.

### Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” and an accompanying “Affidavit of Qualification and Certification” for this proposed facility giving the calculations of radiofrequency power density and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department’s experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore pose no threat to public health.

## **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2) (C).

## **ADMINISTRATIVE CONDITIONAL USE CONDITIONS**

### **Prior to the Issuance of the Master Use Permit (Non-Appealable):**

1. The proposed minor communication utility (T-Mobile) consisting of 3 panel antennas located in the right-of-way atop a City Light pole must be approved by Seattle City Light.
2. Revise the MUP plans to show any corrections required by Seattle City Light.

### **Prior to the Issuance of the Construction Permit:**

1. To reduce the reverberant room noise levels inside the proposed equipment shed, drawings must show Owens's Corning acoustical insulation on the ceiling and on the walls as recommended by acoustical analysis.

### **Prior to the Issuance of the Mechanical Permit:**

1. All future mechanical venting equipment for the proposed equipment shed must be mounted on the south wall facade.

### **For the Life of the Permit**

1. Screening shall be integrated with architectural design, material, shape and color that are similar to that of the existing garage and the single family residence.
2. Landscaping removed due to the placement of the equipment cabinet must be restored and maintained near the perimeter of the easternmost and southernmost property lines or near the equipment shed.

## **CONDITIONS – SEPA**

### **During Construction**

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: December 4, 2003  
Tamara Garrett, Land Use Planner  
Department of Planning and Development